

IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF MISSOURI  
WESTERN DIVISION

UNITED STATES OF AMERICA, )  
                                )  
                                )  
Plaintiff,                 )  
                                )  
v.                           ) Case No.: 13-00273-01/02-CR-W-DGK  
                                )  
                                )  
NORMAN B. WEAVER and     )  
PRESTON T. WEST,            )  
                                )  
Defendants.                 )

**MEMORANDUM OF MATTERS DISCUSSED AND  
ACTION TAKEN AT PRETRIAL CONFERENCE**

**I. BACKGROUND**

Pursuant to the order of the Court en banc of the United States District Court for the Western District of Missouri, a pretrial conference was held in the above-entitled cause before me on October 14, 2015. Defendant Weaver appeared in person and with appointed counsel David Guastello. Defendant West appeared by telephone and with appointed counsel Susan Hunt. The United States of America appeared by Assistant United States Attorney John Cowles.

On December 16, 2014, a Superseding Indictment was returned charging both defendants with conspiracy to commit bank fraud, in violation of 18 U.S.C. § 1349. Defendant Weaver was also charged with one count of forfeiture pursuant to 21 U.S.C. § 853.

**II. TRIAL COUNSEL**

Mr. Cowles announced that he will be the trial counsel for the government; Kate Mahoney will assist. The case agent to be seated at counsel table is Postal Inspector Steve Ryan.

Mr. Guastello announced that he will be the trial counsel for Defendant Weaver.

Ms. Hunt announced that she will be the trial counsel for Defendant West.

### **III. OUTSTANDING MOTIONS**

Defendant West's motion to enter plea by video conference (Doc. No. 315) remains pending.

### **IV. TRIAL WITNESSES**

Mr. Cowles announced that the government intends to call 15 witnesses without stipulations or 15 witnesses with stipulations during the trial.

Mr. Guastello announced that Defendant Weaver intends to call 5-6 witnesses during the trial. Defendant Weaver may testify.

Ms. Hunt announced that Defendant West does not intend to call any witnesses during the trial. Defendant West will not testify.

### **V. TRIAL EXHIBITS**

Mr. Cowles announced that the government will offer approximately 20 exhibits in evidence during the trial.

Mr. Guastello announced that Defendant Weaver will offer approximately 3-4 exhibits in evidence during the trial.

Ms. Hunt announced that Defendant West will not offer any exhibits in evidence during the trial.

### **VI. DEFENSES**

Mr. Guastello announced that Defendant Weaver will rely on the defense of general denial.

Ms. Hunt announced that Defendant West will rely on the defense of general denial.

## **VII. POSSIBLE DISPOSITION**

Mr. Guastello stated this case is probably not for trial.

Ms. Hunt stated this case is probably not for trial as the parties are working to obtain a change-of-plea date.

## **VIII. STIPULATIONS**

Stipulations are not likely.

## **IX. TRIAL TIME**

Counsel were in agreement that this case will take 2 days to try.

## **X. EXHIBIT LIST, VOIR DIRE AND INSTRUCTIONS**

The U. S. Magistrate Judge ordered:

That, in addition to the requirements of the Stipulations and Orders filed June 10, 2014, counsel for each party file and serve a list of exhibits he or she intends to offer in evidence at the trial of this case on the form entitled Exhibit Index and have all available exhibits premarked using the stickers provided by the Clerk of Court by Wednesday, October 14, 2015;

That counsel for each party file and serve requested jury voir dire examination questions by or before noon, Wednesday, October 21, 2015;

That counsel for each party file and serve, in accordance with the requirements of Local Rule 51.1, requested jury instructions<sup>1</sup> by or before noon, Wednesday, October 21, 2015. Counsel are requested to provide proposed jury instructions in both hard copy form, as required by Local Rule 51.1, and by e-mail to the trial judge's courtroom deputy.

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<sup>1</sup>Counsel in all cases assigned to be tried before Judge Fernando Gaitan, Jr., as reflected in the trial letter, shall meet and prepare a packet of agreed proposed jury instructions to be submitted to Judge Gaitan and e-mailed to marylynn\_shawver@mow.uscourts.gov and rhonda\_enss@mow.uscourts.gov by October 23, 2015. To the extent there are disagreements to certain instructions, each attorney shall tab and submit his or her preference on those instructions. The instructions shall be listed in the order they are to be given.

## **XI. UNUSUAL QUESTIONS OF LAW**

If the case proceeds to trial, Defendant Weaver will likely file a motion in limine concerning 404(b) evidence.

## **XII. TRIAL SETTING**

All counsel and the defendants were informed that this case will be listed for trial on the joint criminal jury trial docket which commences on October 26, 2015.

/s/ Robert E. Larsen  
ROBERT E. LARSEN  
United States Magistrate Judge

Kansas City, Missouri  
October 14, 2015

cc: Mr. Kevin Lyon